

IN THE CIRCUIT COURT OF MONONGALIA COUNTY, WEST VIRGINIA

SCOTT THOMAS BALLOCK,

PETITIONER,

V.

PETITION No. 16-P-233

Case No.: 13-M31M-06739

Bond Id.: 13-PR31-1122

Case No.: 13-M31M-06741

Bond Id.: 13-PR31-1121

STATE OF WEST VIRGINIA,

RESPONDENT.

AGREED EXPUNGEMENT ORDER

On this day came the State of West Virginia by Gabrielle E. Mucciola, Prosecuting Attorney, and came Petitioner, by counsel, J. Michael Benninger, and presented to the Court, Petitioner's **PETITION FOR EXPUNGEMENT OF CRIMINAL RECORD**, filed pursuant to West Virginia Code § 61-11-25. Upon a review of the Petition, the Court finds, and the parties agree and stipulate, that the facts in this case are not in dispute and that the only issues are of a legal nature.

The Court **FINDS** the following:

1. On or about September 13, 2013, Petitioner was arrested and charged with one count of stalking; harassment; penalties; and definitions, allegedly in violation of West Virginia Code § 61-02-09A(a).

EXHIBIT 7

2. On or about September 13, 2013, Petitioner was arrested and charged with one count of unwanted communications by computer, allegedly in violation of *West Virginia Code* § 61-03C-14a(a)(2).
3. Criminal complaints were filed in Monongalia County Magistrate Court by Corporal R. M. Gaskins, of the West Virginia State Police, Morgantown Detachment, on September 12, 2013, and assigned the following case numbers: **13-M31M-06739** and **13-M31M-06741**.
4. Magistrate Mullins signed the CRIMINAL JUDGMENT ORDER on April 13, 2016, dismissing Petitioner's charges of one count - stalking; harassment; penalties; definitions, and one count - unwanted communications by computer, in violation of *West Virginia Code* §§ 61-02-09A(a) and 61-03C-14a(a)(2), in the following case numbers: **13-M31M-06739** and **13-M31M-06741**, Bond Id. Numbers: **13-PR31-1121** and **13-PR31-1122**.
5. Petitioner has not been previously convicted of any felony offense.
6. There are no current charges or proceedings pending in any Court concerning the matters for which Petitioner is seeking Expungement.
7. There is no evidence contained in the record to indicate that the State initiated further proceedings against

Petitioner concerning the charge for which this Expungement is sought.

8. This Expungement Petition has been filed at least sixty (60 days since the disposition of the aforementioned criminal charges.)

Based on the above findings, the Court finds that this is an appropriate case for the Expungement of records under *West Virginia Code* § 61-11-25, and is of the opinion to grant the relief requested herein.

It is therefore, **ORDERED** that:

1. All records relating to the arrest, charges or other matters arising out of the arrest or charges of Petitioner, Scott Thomas Ballock, Date of Birth: September 3, 1968, Social Security No.: XXX-XX-4494, for the charges of one count - stalking; harassment; penalties; definitions, and one count - unwanted communications by computer, allegedly in violation of *West Virginia Code* §§ 61-02-09A(a) and 61-03C-14a(a)(2), Magistrate Court Case Numbers **13-M31M-06739** and **13-M31M-06741**, Bond Id. Numbers. **13-PR31-1121** and **13-PR31-1122** shall be **EXPUNGED**.
2. The term "records" as used in this Order includes, but is not limited to, arrest records, fingerprints, photographs, index references or other data whether in

documentary or electronic form, relating to the arrest, charge or other matters arising out of the arrest or charges.

3. Expungement of the records in satisfaction of this Order is accomplished when:
 - a. All records in custody of the Court and/or Clerk of the Court are sealed, and
 - b. All records in the custody of any other agency or official, including law enforcement records, are **EXPUNGED**, meaning, destroyed. However, records maintained by the West Virginia Division of Motor Vehicles are not subject to Expungement or destruction.
4. Every agency with records relating to the arrest, charges or other matters arising out of the arrest or charges that are herein ordered to **EXPUNGE** records, shall certify to this Court, within sixty (60) days of the entry of this **AGREED EXPUNGEMENT ORDER**, that the required Expungement has been completed. Certification shall be complete upon filing the same with the office of the Circuit Clerk.
5. The Clerk of this Court shall seal this Order of Expungement.

6. Upon Expungement, the proceedings in this matter shall be deemed to never have occurred. All courts and other agencies, except the Division of Motor Vehicles, shall reply to any inquiry that no record exists on the matter.
7. The Petitioner shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit or other type of application.
8. Inspection of the sealed records in the Court's possession may be permitted only by Order of this Court under the circumstances prescribed in *West Virginia Code* § 61-11-25(f).

The Clerk of this Court shall provide a copy of this Order via fax and U.S. Mail to the following:

- A. Monongalia County Prosecutor's Office, 243 High Street, Room 323, Morgantown, WV 26505 (F)-(304) 291-7250;
- B. Clerk of the Magistrate Court of City of Morgantown, 75 High Street, Suite 22, Morgantown, WV 26505 (F)-(304) 291-7213;
- C. Counsel for Petitioner at Benninger Law, P.O. Box 623, Morgantown, WV 26505 (F)-(304) 241-1857;

D. Petitioner, 51 Summit Overlook Drive, Morgantown,
Monongalia County, West Virginia 26508. (U.S. Mail only);
and

E. Superintendent, West Virginia State Police, 725 Jefferson
Road, Charleston, WV 26309 (F)-(304)746-2246;

ENTER:

July 13, 2016

Susan B. Tucker
JUDGE

Prepared by:

JWB

J. Michael Benninger
WV Bar # 312
Benninger Law PROFESSIONAL LIMITED LIABILITY COMPANY
P. O. Box 623
Morgantown, WV 26507
(304) 241-1856
mike@benningerlaw.com

Counsel for Petitioner

Approved by:

Marcia Ashdown

Marcia L. Ashdown, P.A.
WV Bar # 174
Monongalia County Prosecutor's Office
243 High Street, Room 323
Morgantown, WV 26505
(304) 291-7250

Prosecuting Attorney for State of West Virginia